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for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FEDERICO CERETTI, *et al.*

Defendants.

Adv. Pro. No. 09-01161 (SMB)

STIPULATED ORDER APPOINTING THE DISCOVERY ARBITRATOR

WHEREAS, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of
Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C.

§§ 78aaa-III (“SIPA”), substantively consolidated with the estate of Bernard L. Madoff, filed the above-captioned adversary proceeding;

WHEREAS, the Trustee issued a document subpoena dated April 27, 2016, and an amended document subpoena dated July 19, 2018, to third-party Eric Lazear (“Document Subpoenas”) in connection with this adversary proceeding;

WHEREAS, in response to the Document Subpoenas, Mr. Lazear produced documents to the Trustee on or about May 20, 2016, August 8, 2016, and August 2, 2018 (the “Document Productions”), and designated the Document Productions as confidential under the Litigation Protective Order, dated June 6, 2011 and Order Modifying the June 6, 2011 Litigation Protective Order, dated September 17, 2013 (ECF Nos. 4137 and 5484 in No. 08-01789 (SMB)) (“LPO”);

WHEREAS, Mr. Lazear submitted his Declaration dated June 8, 2016 to the Trustee and designated it as confidential under the LPO;

WHEREAS, the Trustee issued a deposition subpoena dated May 18, 2018 to Mr. Lazear in connection with this adversary proceeding;

WHEREAS, on September 21, 2018, the Trustee deposed Mr. Lazear, and he designated portions of the deposition transcript and certain exhibits used at the deposition as confidential;

WHEREAS, on December 20, 2018, the Trustee requested that Mr. Lazear de-designate as confidential the Document Productions, Declaration, transcript portions, and exhibits that he had designated as confidential on the basis that they did not fall within the definition of Confidential under the LPO;

WHEREAS, Mr. Lazear de-designated as confidential certain material but refused to de-designate as confidential all of the documents he produced, his Declaration, certain portions of his deposition transcript, and certain exhibits used at his deposition (the “Designated Material”);

WHEREAS, the Trustee contends that the Designated Material is not confidential within the meaning of the LPO, is material and relevant to this adversary proceeding, and should be designated;

WHEREAS, a dispute has thus arisen regarding the confidentiality of the Designated Material;

WHEREAS, on October 4, 2016, Judge Bernstein entered an Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390 (the “October 4, 2016 Order”) appointing the Honorable Frank Maas (ret.), c/o JAMS, Inc. as discovery arbitrator (the “Discovery Arbitrator”) to resolve discovery disputes that may arise and which have been specifically referred to him by the Court with consent of the parties to the dispute.

NOW, THEREFORE, THE PARTIES TO THE STIPULATION AGREE AND STIPULATE AS FOLLOWS:

1. The Parties agree that the dispute over the confidentiality of the Designated Material shall be submitted to the Discovery Arbitrator for adjudication consistent with the October 4, 2016 Order.

2. Upon entry of this Stipulated Order Appointing the Discovery Arbitrator, the Trustee will email the Discovery Arbitrator, copying Mr. Lazear, to request a joint conference with the Discovery Arbitrator to discuss the Dispute and the Discovery Arbitrator’s procedures.

ORDERED, that this Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: January 29, 2019
New York, New York

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Securities LLC and the estate of Bernard L.
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Dated: **February 1st, 2019**
New York, New York

SO ORDERED

/s/ STUART M. BERNSTEIN
Honorable Stuart M. Bernstein
United States Bankruptcy Judge